

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

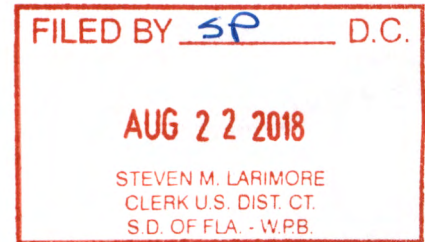
CASE NO. 18-80165-cr-Cohn/Matthewman  
18 U.S.C. § 1349

UNITED STATES OF AMERICA

v.

SMART LAB LLC,  
H. HAMILTON WAYNE, a/k/a “Hawkeye,”  
and  
JUSTIN MORGAN WAYNE,

**Defendants.**



**INFORMATION**

The United States Attorney charges that:

**GENERAL ALLEGATIONS**

At all times material to this Information:

**The Clinical Laboratory**

1. Defendant SMART LAB LLC (“SMART”) was a clinical laboratory that performed urine drug testing with facilities at 10385 Ironwood Road, Suite 130, and 4243 Northlake Boulevard, in Palm Beach Gardens, Florida, in the Southern District of Florida.

2. Defendant SMART was organized as a Limited Liability Company in or around April 2014. Defendants H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and E.W. were authorized members, managers, and owners of defendant SMART.

**The Treatment Facilities**

3. Journey to Recovery LLC (“Journey”) was located at 7451 S. Military Trail, Lake Worth, Florida, in Palm Beach County. Journey purported to operate as a licensed “substance

abuse service provider” or “treatment center,” that is, it purportedly offered clinical treatment services for persons suffering from alcohol and drug addiction. Co-conspirator K.C. owned Journey, although all documentation filed with the State of Florida and the Florida Department of Children and Families failed to disclose K.C.’s ownership because of his criminal history.

4. Reflections Treatment Center, LLC (“Reflections”) was located at 5100 Coconut Creek Parkway, Margate, Florida, in Broward County. Reflections purported to operate as a licensed “substance abuse service provider” or “treatment center,” that is, it purportedly offered clinical treatment services for persons suffering from alcohol and drug addiction. Co-conspirator K.C. owned Reflections, although all documentation filed with the State of Florida and the Florida Department of Children and Families failed to disclose K.C.’s ownership because of his criminal history.

#### **Federal Guidelines for Substance Abuse Treatment**

5. The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment (“SAMHSA”) was tasked with establishing and implementing a comprehensive program to improve the provision of treatment and related services to individuals with respect to substance abuse and with protecting the legal rights of individuals who are substance abusers. 42 U.S.C. § 290aa.

6. “Substance abuse” is defined as “the abuse of alcohol or other drugs.” 42 U.S.C. § 290cc-34(4). “Treatment” means “the management and care of a patient suffering from alcohol or drug abuse, a condition which is identified as having been caused by that abuse, or both, in order to reduce or eliminate the adverse effects upon the patient.” 42 C.F.R. § 2.11.

**Substance Abuse Treatment in Florida**

7. Substance abuse services in Florida were governed by the “Hal S. Marchman Alcohol and Other Drug Services Act” (“the Marchman Act”), Fl. Stat. § 397.301. Amongst other things, the Marchman Act made it unlawful for any person or agency to act as a substance abuse service provider unless it was properly licensed. Fl. Stat. § 397.401(1); Fl. Admin. Code § 65D-300.003(1)(a). Under the Marchman Act, private substance abuse service providers’ policies regarding payment for services had to comply with federal and state law. Fl. Stat. § 397.431

8. The Florida Department of Children and Families was tasked with regulating and licensing substance abuse service providers. Fl. Stat. § 397.321.

9. To insure the legitimacy of substance abuse service providers and to protect the health and welfare of patients, all substance abuse service provider personnel, including all owners, directors, and chief financial officers, had to pass a “level 2 background screening,” including “fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation.” Fl. Stat. §§ 397.451(1)(a)(1), 435.04(1)(a). Persons with qualifying felony convictions, including co-conspirator K.C., were ineligible to own, operate, or serve as personnel at licensed substance abuse service providers.

**Payment for Substance Abuse Treatment and Testing**

10. Insurance coverage for substance abuse treatment and testing was available through a number of avenues, including federal health care benefits programs like the Federal Employees Health Benefits Program (“FEHBP”), health plans sponsored by private employers (including the National Railroad Passenger Corporation (“Amtrak”) employee health care benefit plans), and health plans offered directly by private insurance companies. Health plans sponsored by private

employers are governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, *et seq.*, while those sponsored by governmental employers and certain others are exempted from ERISA’s jurisdiction.

11. Both ERISA and non-ERISA health benefit plans, including Affordable Care Act plans, were offered or administered by private insurance companies, including Blue Cross/Blue Shield (“BCBS”), Aetna, Cigna Behavioral Health, Cigna Health & Life Insurance Company, United Behavioral Health, and United Health Group.

12. Defendant SMART submitted claims for reimbursement to numerous health benefit plans, including the FEHBP plans, Amtrak’s established plans, and private ERISA and non-ERISA health benefit plans (jointly referred to as “the Insurance Plans”).

13. The Insurance Plans were “health care benefit programs,” as defined in Title 18, United States Code, Section 24(b), that is “public or private plans or contracts, affecting commerce, under which any medical benefit, item or service is provided to any individual.”

14. Regardless of the type of Insurance Plan held by a patient, the amount of coverage and terms and conditions of billing and payment were governed by the terms of the patient’s insurance documents, and the insurance company administering the plan had the authority, responsibility, and discretion to make coverage determinations and to process and make payments on claims.

15. The “Florida Patient Brokering Act,” made it a felony offense for any person, health care provider, or health care facility, including any state licensed substance abuse service provider or licensed clinical laboratory, to: “(a) Offer or pay any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of patients or patronage to or from a health care provider or

health care facility; (b) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring patients or patronage to or from a health care provider or health care facility; (c) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgement of treatment from a health care provider or health care facility; or (d) Aid, abet, advise, or otherwise participate in the conduct prohibited under paragraph (a), paragraph (b), or paragraph (c).” Fla. Stat. § 817.505.

16. Florida law also provided that it was “a material omission and insurance fraud . . . for any service provider, other than a hospital, to engage in a general business practice of billing amounts as its usual and customary charge, if such provider has agreed with the insured or intends to waive deductibles or copayments, or does not for any other reason intend to collect the total amount of such charge.” Fla. Stat. § 817.234(7)(a).

17. Under the terms of the insurance policies and consistent with state and federal law, the Insurance Plans were only responsible for claims for services that: (a) were “medically necessary” and actually rendered, (b) were provided by a properly licensed service provider in compliance with state and federal law, and (c) complied with the terms of the health care plans, including the obligation to pay co-insurance and deductibles.

### **Bodily Fluid Testing**

18. Bodily fluid testing could be used to detect recent drug or alcohol use by a client by conducting various tests on a client’s urine, blood, and saliva. Urine Analysis or urinalysis (“UA”) testing ranged in complexity from screening tests – also known as point of care (“POC”) testing –

which provided instant results, to confirmatory testing, which was sent to a laboratory, for more complex analysis. Laboratories could also conduct complex analysis on blood and saliva samples.

19. Like other medical tests, bodily fluid testing could be billed and reimbursed pursuant to the terms of the insurance policy. The Insurance Plans were only responsible for claims for testing that was “medically necessary,” actually performed, prescribed, and conducted by a properly licensed service provider in the course of medical treatment, and conducted and billed in compliance with the terms of the health care plan, including the obligations to pay co-insurance and to operate in accordance with state and federal law.

20. The Insurance Plans provided guidance to service providers, including physicians, substance abuse treatment centers, and laboratories, for the types and frequency of testing that would be reimbursable. This guidance was based upon policy statements from the American Society of Addiction Medicine (“ASAM”), publications by expert researchers in the area of substance abuse treatment, and policies of federal and state governmental agencies.

### **COUNT 1**

21. Paragraphs 1-20 of the “General Allegations” section of this Information are re-alleged and incorporated by reference as if fully set forth herein.

22. From at least as early as March 2016, through in or around December 2017, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendants,

**SMART LAB LLC,  
H. HAMILTON WAYNE, a/k/a “Hawkeye,”  
and  
JUSTIN MORGAN WAYNE,**

did knowingly and willfully combine, conspire, confederate, and agree with each other and with persons known and unknown to the United States Attorney, to violate Title 18, United States Code,

Section 1347, that is, in connection with the delivery of and payment for health care benefits, items, and services, to execute and attempt to execute, a scheme and artifice to: (a) defraud health care benefit programs, as defined by Title 18, United States Code, Section 24(b); and (b) obtain, by means of materially false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, health care benefit programs, as defined by Title 18, United States Code, Section 24(b).

### **OBJECT OF THE CONSPIRACY**

23. It was the object of the conspiracy for the defendants to unlawfully enrich themselves and others, by defrauding health care benefit programs and obtaining the money of health care benefit programs to which the defendants were not entitled, that is, by submitting claims for medically unnecessary urinalysis testing that was solicited via the use of unlawful kickbacks and bribes.

### **MANNER AND MEANS OF THE CONSPIRACY**

24. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among other things, the following:

a. Defendants H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, established defendant SMART to perform confirmatory urinalysis testing.

b. Defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, established bank accounts to receive proceeds of insurance claims for medically unnecessary urinalysis testing and to pay kickbacks and bribes to individuals and entities who referred urine samples to Defendant SMART for testing.



c. Defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, established written and unwritten agreements with co-conspirators wherein defendant H. HAMILTON WAYNE, a/k/a “Hawkeye,” and co-conspirators would solicit bodily fluid samples from substance abuse treatment centers that would be submitted to defendant SMART for expensive confirmatory drug testing. In exchange, defendant SMART would kick back a portion of the insurance reimbursements, disguised as payments for sales commissions, to co-conspirators, understanding that a portion of those payments would then be paid, directly or indirectly, to owners, operators, or clinicians at the substance abuse treatment centers that referred the testing of urine samples from insured patients.

d. Co-conspirator owners, operators, and employees of Journey, Reflections, and other substance abuse treatment centers identified intermediaries to receive kickback payments. These intermediaries included friends, business associates, and shell corporations.

e. Defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, and co-conspirators developed form standing orders and drug testing protocols that provided for duplicative, medically unnecessary, and expensive confirmatory testing regardless of the individual needs of any patients.

f. Co-conspirator owners, operators, and employees of Journey, Reflections, and other substance abuse treatment centers hired doctors to serve as medical directors of the substance abuse treatment facilities and paid the doctors a monthly salary. In return, the doctors signed standing orders, drug testing protocols, prescriptions, and statements of medical necessity for duplicative, expensive, and medically unnecessary confirmatory drug testing of the substance



abuse treatment center patients who had insurance so that defendant SMART could submit insurance claims for the excessive and medically unnecessary bodily fluid testing.

g. Co-conspirator treatment center owners required the substance abuse treatment center patients with insurance to submit to confirmatory drug testing approximately three times per week, which defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, could bill to the Insurance Plans.

h. Even after learning that UA samples from Reflections and Journey had been split amongst multiple patients, defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, submitted claims for insurance reimbursements as though the UA samples had been properly collected from individual patients.

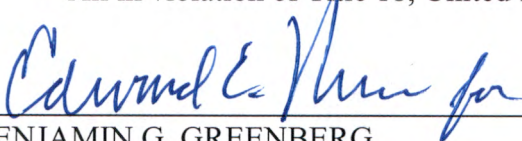
i. Defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, elected not to collect mandatory co-payments, deductibles, and other co-insurance from patients that could cause patients to be unable or unwilling to submit to testing so that defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” JUSTIN MORGAN WAYNE, and other members of the conspiracy could, instead, collect the much larger reimbursements from the Insurance Plans. The members of the conspiracy, including defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, did not inform the Insurance Plans that they were not collecting the co-insurance payments as required by the terms of the Insurance Plans.

j. Members of the conspiracy, including defendants SMART, H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, and persons known and unknown

to the United States Attorney, prepared and caused the preparation and submission to the Insurance Plans of fraudulent insurance claim forms, that is, (i) the claims falsely stated that the confirmatory lab testing had been properly prescribed and medically necessary when, in truth and in fact, the claimed testing had not been properly prescribed or necessary; (ii) the claims failed to disclose that the referrals for urinalysis testing were solicited by the payment of bribes and the promise of kickbacks; (iii) the claims failed to disclose that the patients had not paid their co-payments and deductibles; and (iv) the claims failed to disclose that, in some instances, the urinalysis testing was performed on urine that did not come from the patient whose insurance was billed.

k. Upon receipt of payments from the Insurance Plans based upon the fraudulent claims submitted by defendant SMART, defendants H. HAMILTON WAYNE, a/k/a “Hawkeye,” and JUSTIN MORGAN WAYNE, and persons known and unknown to the United States Attorney, paid kickbacks, that is, a pre-set percentage of the insurance reimbursements, to members of the conspiracy.

All in violation of Title 18, United States Code, Section 1349.

  
BENJAMIN G. GREENBERG  
UNITED STATES ATTORNEY

  
A. MARIE VILLAFANA  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. 18-80165-cr-Cohn/Matthewman

vs.

**SMART LAB, LLC, H. HAMILTON  
WAYNE, a/k/a "Hawkeye," and  
JUSTIN MORGAN WAYNE,**

Defendants.

**CERTIFICATE OF TRIAL ATTORNEY\***

**Superseding Case Information:**

**Court Division: (Select One)**

Miami ☐ Key West ☐  
FTL ☐ WPB ☒

New Defendant(s) ☐  
Number of New Defendants ☐  
Total number of counts ☐  
FTP ☐

Yes ☐ No ☐

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_
4. This case will take 5 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I ☐ 0 to 5 days  
II ☐ 6 to 10 days  
III ☐ 11 to 20 days  
IV ☐ 21 to 60 days  
V ☐ 61 days and over

X  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Petty ☐  
Minor ☐  
Misdem. ☐  
Felony ☒

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge:

Case No. \_\_\_\_\_

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. \_\_\_\_\_

-Related Miscellaneous numbers: 17-CR-80013-DMM

Defendant(s) in federal custody as of \_\_\_\_\_

Defendant(s) in state custody as of \_\_\_\_\_

Rule 20 from the \_\_\_\_\_

District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) Yes ☐ No ☒

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes ☐ No ☒
8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes ☐ No ☒



A. MARIE VILLAFANÁ  
ASSISTANT UNITED STATES ATTORNEY  
Florida Bar No. 0018255

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**PENALTY SHEET**

Defendant's Name: SMART LAB, LLC

Case No.: 18-80165-cr-Cohn/Matthewman

Count # 1:

Conspiracy to commit health care fraud.

Title 18, United States Code, Section 1349.

**\*Max. Penalty:** At least 1 year of probation up to 5 years of probation. Fine: \$500,000  
or twice the gross pecuniary gain or twice the gross pecuniary loss.

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**PENALTY SHEET**

Defendant's Name: H. HAMILTON WAYNE, a/k/a "Hawkeye"

Case No.: 18-80165-cr-Cohn/Matthewman

Count # 1:

Conspiracy to commit health care fraud.

Title 18, United States Code, Section 1349.

**\*Max. Penalty:** 10 years imprisonment; 3 years supervised release; \$250,000 fine or  
twice the gross pecuniary gain or twice the gross pecuniary loss.

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**PENALTY SHEET**

Defendant's Name: JUSTIN MORGAN WAYNE

Case No.: 18-80165-cr-Cohn/Matthewman

Count # 1:

Conspiracy to commit health care fraud.

Title 18, United States Code, Section 1349.

\***Max. Penalty:** 10 years imprisonment; 3 years supervised release; \$250,000 fine or  
twice the gross pecuniary gain or twice the gross pecuniary loss.

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

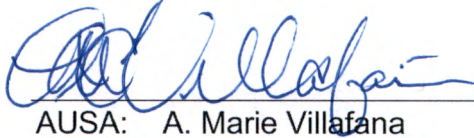
**CASE NUMBER:** 18-80165-cr-Cohn/Matthewman

**BOND RECOMMENDATION**

**DEFENDANT:** H. HAMILTON WAYNE, a/k/a "Hawkeye"

Personal Surety in the amount of \$100,000 co-signed by wife  
(Personal Surety) (Corporate Surety) (Cash) (Pre-Trial Detention)

By:

  
AUSA: A. Marie Villafana

Last Known Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What Facility: \_\_\_\_\_

\_\_\_\_\_

Agent(s): S/A Bill Stewart

**(FBI)** (SECRET SERVICE) (DEA) (IRS) (ICE) (OTHER)



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

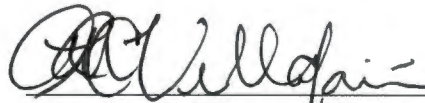
**CASE NUMBER:** 18-80165-cr-Cohn/Matthewman

**BOND RECOMMENDATION**

**DEFENDANT:** JUSTIN MORGAN WAYNE

Personal Surety in the amount of \$100,000 co-signed by wife  
(Personal Surety) (Corporate Surety) (Cash) (Pre-Trial Detention)

By:



AUSA: A. Marie Villafana

Last Known Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What Facility: \_\_\_\_\_

\_\_\_\_\_

Agent(s):

S/A Bill Stewart

**(FBI)** (SECRET SERVICE) (DEA) (IRS) (ICE) (OTHER)

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UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

Smart Lab LLC

*Defendant*

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Case No. 18-80165-cr-Cohn/Matthewman

**WAIVER OF AN INDICTMENT**

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Defendant's Signature*

\_\_\_\_\_  
*Signature of defendant's attorney*

\_\_\_\_\_  
*Printed name of defendant's attorney*

\_\_\_\_\_  
*Judge's signature*

\_\_\_\_\_  
*Judge's printed name and title*

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UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

H. Hamilton Wayne, a/k/a "Hawkeye"

*Defendant*

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Case No. 18-80165-cr-Cohn/Matthewman

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Defendant's Signature*

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*Signature of defendant's attorney*

\_\_\_\_\_  
*Printed name of defendant's attorney*

\_\_\_\_\_  
*Judge's signature*

\_\_\_\_\_  
*Judge's printed name and title*

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UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

Justin Morgan Wayne

*Defendant*

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Case No. 18-80165-cr-Cohn/Matthewman

**WAIVER OF AN INDICTMENT**

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Defendant's Signature*

\_\_\_\_\_  
*Signature of defendant's attorney*

\_\_\_\_\_  
*Printed name of defendant's attorney*

\_\_\_\_\_  
*Judge's signature*

\_\_\_\_\_  
*Judge's printed name and title*